IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

TUESDAY, THE 18TH DECEMBER 2007 / 27TH AGRAHAYANA 1929

WP(C).No. 31426 of 2007(N)

PETITIONER:

V.VIJAYAN,
LAKSHMI NIVAS, PILICODI VAYAL, P.O.PILICODE,
KARIVELLUR, KASARAGOD DISTRICT.

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENTS:

KERALA KHADI AND VILLAGE INDUSTRIES BOARD, THIRUVANANTHAPURAM, REPRESENTED BY THE SECRETARY, KERALA KHADI AND VILLAGE INDUSTRIES BOARD, THIRUVANANTHAPURAM.

***ADDL.R2 IS IMPLEADED:**

R2. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, DEPARTMENT OF INDUSTRIES, SECRETARIAT, THIRUVANANTHAPURAM.

(*ADDL.R2 IS IMPLEADED AS PER ORDER DTD. 18/12/2007 IN I.A.NO.16139/07)

BY SRI. K.P.HARISH, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI,J.

W.P (C) No. 31426 of 2007

Dated this the 18th December, 2007

J U D G M E N T

Petitioner retired from service on 31.3.2006 from the respondent Board. Disciplinary proceedings were initiated while he was in service. By Exhibit-P4 order dated 23.12.2006, an amount of Rs.2,05,123/- was fixed as the liability of the petitioner. Petitioner paid the said amount on 12.1.2007, as evidenced by Exhibit P5. Petitioner's grievance is that the DCRG is yet to be disbursed to him. Further, only provisional pension is paid to him.

2. A statement has been filed on behalf of the Board pointing out that there is a vigilance case registered against petitioner. The Government therefore instructed the Board that the terminal benefits need not be disbursed to the petitioner. In so far as Exhibit P4 is concerned, it evidences a prior inquiry and a determination of the liability. Learned counsel for the petitioner submits that the petitioner's liability should therefore be treated as determined under Exhibit P4 and since the said amount has been paid, there is no further issue of any other amount being considered as liability. Learned standing counsel

refuted the same.

It is true that Exhibit P4 shows that there was an audit report and enquiry prior to the determination made thereunder. I do not think that Exhibit P4 can be construed as disabling the respondent from assessing any other amount as liability if it otherwise exists.

In the circumstances, the writ petition is disposed of in the following terms:

i) If the respondent proposes to fix any amount as liability on the petitioner, notice stating specific reasons in this regard shall be issued to the petitioner, within one month from the date of receipt of a copy of this judgment.

ii) Petitioner shall be entitled to file his objections. After hearing the petitioner, a reasoned order should be passed by the 1st respondent, if any other amount is sought to be fixed as liability. It is made clear that pendency of the vigilance case need not be treated as a reason to delay the completion of the above process.

iii) Once such orders are issued, the amount due to the petitioner by way of DCRG shall be disbursed to the petitioner,

within two weeks thereafter. Taking note of the fact that there is a vigilance case pending against the petitioner, the respondent may call upon the petitioner to execute a bond in terms of Rule 116, Note 5 of Part III of the K.S.R.

IV) Once the vigilance case is over, respondent shall pass orders granting full pension to the petitioner subject to any order that may be passed on completion of the vigilance case.

(V.GIRI, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007